

R.H. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's decision regarding Mr. H.'s claim for temporary total disability compensation under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUE PRESENTED**

In a decision issued on January 12, 2004, Judge La Jeunesse ordered, among other things, that Sedgwick CMS pay for Mr. H.'s left knee surgery. The surgery has been recommended by Mr. H.'s physician, but has not yet been performed.

Mr. H. has asked the Commission to review Judge La Jeunesse's order. Specifically, Mr. H. argues he should be awarded compensation for temporary total disability anticipated to result from his knee surgery.

### **DISCUSSION**

It may reasonably be presumed that Mr. H. will be entitled to temporary total disability compensation as he recovers from left knee surgery. However, until the surgery takes place, Mr. H.'s claim is potential rather than real. If Mr. H. actually undergoes the surgery, incurs a period of disability, and Sedgwick refuses to pay disability compensation, Mr. H. can invoke the Commission's continuing jurisdiction to resolve the dispute. Until then, Mr. H.'s claim for temporary total disability compensation is not ripe for adjudication.

### **ORDER**

The Commission dismisses Mr. H.'s motion for review without prejudice. It is so ordered.

Dated this 15<sup>th</sup> day of June, 2004.

R. Lee Ellertson, Commissioner